

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:	)	Group Art Unit: 1631
	)	
HOGAN <i>et al.</i>	)	Examiner: Marschel, A.
	)	
Serial No. 08/454,529	)	Atty. Docket No. GP004-16.DV4
	)	
Filed: May 30, 1995	)	<b>VIA FEDERAL EXPRESS</b>
	)	
For: METHODS FOR DETERMINING	)	
THE PRESENCE OF NON-VIRAL	)	
ORGANISMS IN A SAMPLE	)	

**SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT  
UNDER 37 C.F.R. § 1.97(c)**

Examiner Ardin H. Marschel  
Art Unit 1631  
United States Patent and Trademark Office  
7<sup>th</sup> Floor Receptionist  
1911 South Clark Place  
Crystal Mall One  
Arlington, Virginia 22202

Dear Examiner Marschel:

In accordance with MPEP § 2001.06(c), Applicants hereby bring to the Examiner's attention the existence of Civil Action No. 99 CIV 4548, a patent infringement action brought by Enzo Biochem, Inc. against Gen-Probe Incorporated *et al.* in the United States District Court for the Southern District of New York. The patent asserted in this infringement action is U.S. Patent No. 4,900,659 ("the '659 patent"), a patent which issued to Enzo Biochem and includes claims directed to the detection of *Neisseria gonorrhoeae* in a test sample. The Gen-Probe products alleged to infringe the '659 patent by Enzo Biochem include oligonucleotides covered by one or more claims of the above-captioned application. A copy of the '659 patent and references produced by the parties to this litigation are listed on the attached forms PTO/SB/08 (two copies) and are enclosed herewith for consideration in connection with the examination of the above-captioned application.

IDS

Serial No. 08/454,529  
Atty. Docket No. GP004-16.DV4

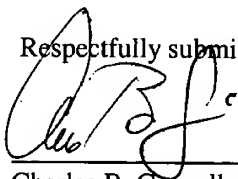
This Information Disclosure Statement is being submitted under the provisions set forth in 37 C.F.R. § 1.97(c) more than three months from the filing date of the subject application and after the mailing date of a first Office action on the merits but before the mailing date of final action, notice of allowance or action that otherwise closes prosecution in the application. Although *ex parte* prosecution in the instant application has been suspended, due to a potential interference, Applicants submit that a suspended prosecution does not close prosecution in an application.

Please charge the fee set forth in 37 C.F.R. § 1.17(p), and any other fee which may be due, to Deposit Account No. 07-0835 in the name of Gen-Probe Incorporated.

Applicants respectfully request an indication that the cited references were considered by returning a copy of the attached forms PTO/SB/08 with the Examiner's initials or other appropriate marks.

At the Examiner's recommendation, this correspondence (and any referred to as attached) is being sent by Federal Express on the date indicated below to Examiner Ardin H. Marschel, Art Unit 1631, United States Patent and Trademark Office, 7<sup>th</sup> Floor Receptionist, 1911 South Clark Place, Crystal Mall One, Arlington, Virginia 22202.

Respectfully submitted,



Dated: May 5, 2003

By:

Charles B. Cappellari  
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## INFORMATION DISCLOSURE STATEMENT BY APPLICANT

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Sheet	1	of	12
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**Complete if Known**

<b>Application Number</b>	<b>08/454,529</b>
<b>Filing Date</b>	<b>May 30, 1995</b>
<b>First Named Inventor</b>	<b>HOGAN et al.</b>
<b>Group Art Unit</b>	<b>1631</b>
<b>Examiner Name</b>	<b>Marschel, A.</b>
<b>Attorney Docket Number</b>	<b>GP004-16.DV4</b>

## U.S. PATENT DOCUMENTS

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## FOREIGN PATENT DOCUMENTS

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Sheet	2	of	12	

OTHER PRIOR ART – NON PATENT LITERATURE DOCUMENTS			
Examiner Initials <sup>1</sup>	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T <sup>2</sup>
		AALEN et al., "Polypeptides Encoded by Cryptic Plasmids from <i>Neisseria Gonorrhoeae</i> ," Plasmids, 1985 Nov., 14(3):209-16	
		AHO et al., "Distribution of Specific DNA Sequences among Pathogenic and Commensal <i>Neisseria</i> Species," Infection and Immunity, 1987 April, 55(4):1009-13	
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		ASHLEY et al., "Synthesis of Single-Stranded Hybridization Probes from Reusable DNA Templates Bound to Solid Support," Analytical Biochemistry, 1984 July, 140(1):95-103	
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		BJORVATN et al., "Applications of Restriction Endonuclease Fingerprinting of Chromosomal DNA of <i>Neisseria meningitidis</i> ," Journal of Clinical Microbiology, 1984 June, 19(6):763-65	

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		BLACK et al., "Cloning of the Gene for the Common Pathogenic <i>Neisseria</i> H.8 Antigen from <i>Neisseria gonorrhoeae</i> ," <i>Infection and Immunity</i> , 1985 Jan., 47(1):322-5	
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		DORMAN et al., "Detection of Bovine Herpesvirus 1 DNA Immobilized on Nitrocellulose by Hybridization with Biotinylated DNA Probes," <i>Journal of Clinical Microbiology</i> , 1985 Dec., 22(6):990-5	

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		DUNN et al., "Mapping Viral mRNAs by Sandwich Hybridization," Methods In Enzymology, 1980, 65(1):468-78	
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		GOTSCHLICH et al., "Cloning of the Structural Genes of Three H8 Antigens and of Protein III of Neisseria Gonorrhoeae," J. Exp. Med., 1986 Sept., 164(3):868-81	
		GRAVES et al., "Sequence-Specific DNA Uptake In Transformation of Neisseria gonorrhoeae," Journal of Bacteriology, 1982 Dec., 152(3):1071-1077	
		GRUNSTEIN et al., "Colony Hybridization: A Method for the Isolation of Cloned DNAs that Contain a Specific Gene," Pro. Natl. Acad. Sci. USA, 1975 Oct., 72(10):3961-65	

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		HAAS et al., "The Repertoire of Silent Pili Genes in <i>Neisseria gonorrhoeae</i> : Evidence For Gene Conversion," <i>Cell</i> , 1986 Jan., 44(1):107-15	
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		HAGBLOM et al., "Intragenic Variation by Site-Specific Recombination in the Cryptic Plasmid of <i>Neisseria gonorrhoeae</i> ," <i>Journal of Bacteriology</i> , 1986 July, 167(1):231-7	
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		HILL et al., "Genetic Methods for the Detection of Microbial Pathogens, Identification of Enterotoxigenic <i>Escherichia coli</i> by DNA Colony Hybridization: Collaborative Study," <i>J. Assoc. Off. Anal. Chem.</i> , 1984 Jul.-Aug., 67(4):801-7	
		HOKE et al., "Taxonomy of the <i>Neisseriae</i> : Deoxyribonucleic Acid Base Composition Interspecific Transformation and Deoxyribonucleic Acid Hybridization," <i>Journal of Systematic Bacteriology</i> , 1982 Jan, 32(1):57-66	
		HORN et al., "Use of Nucleic Acid Probes for the Detection of Sexually Transmitted Infectious Agents," <i>Diagnostic Microbiology and Infectious Disease</i> , 1986 Mar., 4(3 Suppl):101S-109S	
		HUPPI et al., "DNA Hybridization Subtraction: Differences Detected Between BALB/cAnPt and BALB/cJax at the DNA Level," <i>Microbiology and Immunology</i> , 1985, 122:71-7	
		HYYPÄÄ et al., "Analysis and Detection of Chlamydial DNA," <i>Journal of General Microbiology</i> , 1984 Dec., 130 (Pt 12):3159-64	
		HYYPÄÄ et al., "Detection of Chlamydia Trachomatis In Clinical Specimens by Nucleic Acid Spot Hybridization," <i>Journal of General Microbiology</i> , 1985 Apr., 131 (Pt 4):975-8	

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		HYYPÄÄ et al., "Detection of Enteroviruses by Spot Hybridization," Journal of Clinical Microbiology, 1984 March, 19(3):436-8	
		ISON et al., "Homology of cryptic plasmid of <i>Neisseria gonorrhoeae</i> with Plasmids from <i>Neisseria meningitidis</i> and <i>Neisseria Lactamica</i> ," J. Clin. Pathol., 1986 Oct., 39(10):1119-23	
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		KOCH et al., "Lifelong Persistence of Paramyxovirus Sendai-6/94 In C129 Mice: Detection of a Latent Viral RNA by Hybridization with a Cloned Genomic cDNA Probe," Virology, 1984 July, 136(1):78-88	
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		KOOMEY et al., "Cloning of the <i>recA</i> Gene of <i>Neisseria gonorrhoeae</i> and Construction of Gonococcal <i>recA</i> Mutants," Journal of Bacteriology, 1987 Feb., 169(2):790-5	
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		KORCH et al., "In-vivo-modified Gonococcal Plasmid pJD1: A Model System for Analysis of Restriction Enzyme Sensitivity to DNA Modification," Eur. J. Biochem, 1986 Dec., 161(3):519-24	
		KORCH et al., "Cryptic Plasmid of <i>Neisseria gonorrhoeae</i> : Complete Nucleotide Sequence and Genetic Organization," Journal of Bacteriology, 1985 Aug., 163(2):430-8	
		KORCH et al., "Sequence-Specific DNA Modification in <i>Neisseria gonorrhoeae</i> ," Journal of Bacteriology, 1983 Sept., 155(3):1324-32	
		KOWALSKI et al., "Adenovirus DNA Replication In Vivo Properties of Short DNA Molecules Extracted from Infected Cells," Biochimica et Biophysica Acta, 1982 Sept., 698(3):260-70	

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			Filing Date	May 30, 1995	
			First Named Inventor	HOGAN et al.	
			Group Art Unit	1631	
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